

Members

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Sen. Johnny Nugent
Sen. John Waterman
Sen. James Lewis
Sen. Richard Young
Sen. Larry Lutz
Rep. Dennie Oxley, Vice-Chairperson
Rep. James Bottorff
Rep. Markt Lytle
Rep. William Friend
Rep. Jack Lutz
Rep. Dean Young



WATER RESOURCES STUDY COMMITTEE

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Authority: IC 2-5-25

MEETING MINUTES¹

Meeting Date: September 3, 2003
Meeting Time: 10:00 A.M.
Meeting Place: State House, 200 W. Washington St., Room 130
Meeting City: Indianapolis, Indiana
Meeting Number: 2

Members Present: Sen. Thomas Weatherwax, Chairperson; Sen. Johnny Nugent; Sen. John Waterman; Sen. James Lewis; Sen. Richard Young; Sen. Larry Lutz; Rep. Dennie Oxley, Vice-Chairperson; Rep. James Bottorff; Rep. Markt Lytle; Rep. William Friend; Rep. Jack Lutz.

Members Absent: Rep. Dean Young.

The chairperson called the meeting to order at 10:15 a.m., and called on Jim Hebenstreit, Department of Natural Resources (DNR), to present information concerning the water shortage plan and DNR's working group progress. Mr. Hebenstreit distributed copies of the 1994 water shortage plan and the draft work plan for the working group (exhibits A and B). He explained that, while about thirty states have some sort of water shortage plan, Michigan does not, and Kentucky has a voluntary plan that is implemented at the county

¹ Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.ai.org/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

level, while Illinois and Ohio have plans that need to be updated. The federal government plans to create a national drought council to offer assistance to the states. Mr. Hebenstreit stated that a water usage plan should be based on a regional or watershed model, as it is in most states that have plans. Currently in Indiana, the State Emergency Management Agency (SEMA) includes droughts as a part of its emergency response plan, and DNR has the authority to establish minimum stream flows for rivers and streams; however, they may not have the appropriate personnel to establish the stream flows. The working group has not yet met again. Mr. Hebenstreit pointed out that certain items in the draft work plan would require the use of consultants, which could cost \$250,000 or more, and that he wished the Committee to be aware of the potential costs. He will attempt to convene the working group before the end of September.

Dan Mathis, legislative liaison for DNR, explained that establishing minimum stream flows involves making policy choices, as a determination must be made of which uses are included in the calculations. DNR has some data available, and hopes to gather more so that the Committee can have the data available to make policy recommendations concerning usage. Unlike western states, Indiana does not have a permitting system for withdrawals from streams. DNR will gather information about the western systems for the Committee, and will attempt to get more utilities and irrigation users involved in the working group.

Vince Griffin, Indiana Chamber of Commerce, stated that the draft work plan has not yet drawn a great deal of response, and that the Chamber will attempt to gather more business responses.

Glenn Pratt, Sierra Club, pointed out that cities need to start adopting priority of use ordinances, particularly if they rely on surface water as a primary water supply. He cautioned against going to a western state model of water permitting, as these permits establish an absolute right to withdraw and use water without balancing others' needs.

Mark Thornburg, Indiana Farm Bureau, stated that the working group might need to be expanded now that an initial draft is available. He stated that the western states' prior use doctrine may have some water allocation ideas that are useful to consider.

Mr. Mathis presented information concerning DNR's legislative proposals for the committee's consideration. Ken Smith, Assistant Director, Division of Water, DNR, explained a proposal concerning dam regulation. Currently, DNR regulates around 1,200 dams that meet certain criteria and fall under DNR's jurisdiction. However, developers are now building dams that fall just outside of the size requirements that would trigger DNR jurisdiction, yet that would cause significant damage to downstream property owners if the dams fail. DNR proposes allowing downstream landowners to petition DNR to take jurisdiction over these dams. DNR would investigate and determine whether the dam would be a high hazard dam if it failed, and, if so, take jurisdiction over the dam. In addition, DNR would like to have dam owners notify DNR if ownership of a dam is transferred.

After Committee discussion, DNR was asked to work with the Legislative Services Agency (LSA) to develop legislation on these issues. In addition, LSA was instructed to work with DNR in developing a bill draft concerning conflicting enforcement and penalty language within the Division of Water statutes.

In response to a question from the Committee, Mr. Smith explained that there is no requirement that DNR be contacted before a developer begins digging a pond on private property, unless the land is in a floodway or if the dam creating the pond is higher than

twenty feet. However, DNR would recommend that a developer consult with DNR or an engineer before beginning the work.

The water shortage working group will be scheduled to meet during the last week of September, thus, the Committee will schedule a meeting in mid-October to get a progress report. The meeting was adjourned at 11:30 a.m.